



State of Louisiana
Louisiana Department of Health
Bureau of Health Services Financing

VIA E-MAIL ONLY

October 18, 2019

Mr. Aaron Lambert
Healthy Blue
10000 Perkins Rowe Suite G-510
Baton Rouge, LA 70810

RE: Notice of Action for Healthy Blue's Non-compliance – *Chisholm v. Gee*

Dear Aaron:

Healthy Blue (HBL) has failed to take corrective action regarding continued non-compliance with the court-ordered requirements for denial, partial approvals and partial denial notices mandated by *Chisholm v. Gee* (*Chisholm*), as required by the contract between HBL and the Louisiana Department of Health (LDH). The contract provides:

8.4.2. The MCO UM Program policies and procedures shall include service authorization policies and procedures consistent with 42 CFR §438.210, 42 CFR §441 Subpart D, state laws and regulations, Medicaid State Plan and waivers, and the court-ordered requirements of *Chisholm v. Gee* and *Wells v. Gee* for initial and continuing authorization of services...

LDH staff informed HBL in face-to-face meetings on December 18, 2018, and January 3, 2019, of multiple violations of the court-ordered requirements for denial and partial denial notices mandated by *Chisholm*. HBL was again provided a Chisholm Compliance Guide containing Prior Authorization requirements. Some of the violations discussed during those meetings are as follows:

- Failure to meet the Prior Authorization Requirements specifically failure to follow the Prior Authorization Liaison (PAL) process;
- Failure to issue Notices of Insufficient Documentation when necessary.
- Failure to address each service separately when issuing notices containing requests involving multiple services;
- Failure to issue written decisions on prior authorization timely;
- Failure to follow required process of submission for LDH approval all Chisholm denials, partial denials and partial approvals prior to being sent to the member;

- Failure to follow LDH directives with regards to its SharePoint site; and
- Failure to revise notice language such as “the service does not seem to be helping.”

LDH has continued throughout 2019 to be available to provide assistance to HBL, as outlined below:

- On April 24, 2019, due to HBL’s continued non-compliance, LDH staff again met with HBL to address the actual deficiencies in several of HBL’s most recent notices to correct the denial notices and to prevent future deficient notices. LDH staff worked with HBL to review the PAL process and the importance of HBL to not develop its own practices and policies outside of the PAL process and the Chisholm Compliance Guide.
- On June 19, 2019, LDH and HBL representatives, Dexter Trivett and Brenda Tompkins, had a conference call to discuss outstanding denial notices.
- On July 11, 2019, LDH conducted a SharePoint training session. HBL representatives, Jennifer Campbell, Justin Massicot, Luijiani Taylor, and Brenda Tompkins were in attendance. LDH provided instructions on how to navigate the newly updated system and was provided with a copy of the Chisholm Notice Compliance Process Manual. HBL was shown how to make changes to denial notices directly in the system and instructed not to upload multiple copies of denial letter. HBL has also been advised multiple times not to delete any documents from SharePoint.
- On October 16, 2019, LDH had a conference call with HBL to discuss the continued deficiencies in Chisholm notices. On the call, SharePoint issues regarding HBL uploading multiple notices for the same matter was discussed. You were instructed again on the required procedure when submitting notices for review. HBL’s recent DME related notice was discussed the original and corrected submission were still non-compliant. Insufficient information, poorly worded sentences, no documentation regarding the PAL process and information pertaining to what outstanding information was needed were some of the issues discussed. You were again instructed that LDH provides detailed comments for each notice submission in SharePoint which provide guidance for each deficiency. We also discussed on the call that HBL is still not following the Chisholm Compliance Guide. Finally, adherence to the 10 day notice requirement was discussed. HBL is not meeting this requirement placing HBL and LDH out of compliance with *Chisholm v. Gee*.

Despite LDH’s efforts to assist HBL in obtaining compliance with the court-ordered requirements of *Chisholm*, HBL still fails to issue *Chisholm* compliant notices, and the issues first presented in December of 2018 still persist. HBL has failed to implement utilization management procedures consistent with the court-ordered requirements of *Chisholm*.

Failure to adhere to the contract requirements cited herein carries a monetary penalty of \$5,000 per occurrence per calendar day of non-compliance in accordance with Section 20.3.3. By

Mr. Aaron Lambert

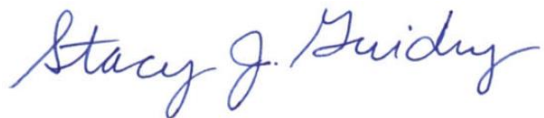
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November 1, 2019, HBL must provide a written response containing a detailed corrective action plan (CAP) addressing all issues outlined above that includes the dates by which each issue will be resolved. If LDH approves the corrective action plan, LDH will monitor HBL's progress and penalties will be assessed if the issues are not resolved in the timelines outlined in the CAP. LDH will also continue to review notices and may issue penalties for noncompliance, if warranted, regardless of the corrective action plan timeline.

Should you have any questions, please do not hesitate to contact me.

Sincerely,



Stacy Guidry

Section Chief, Medicaid Program Operations and Compliance

SG/lj

cc: Michael Boutte
Rene Huff
Jen Steele
Kim Sullivan
Christina Wilson
HBL2-20